

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

MATTHEW W. CALVERT,

Plaintiff,

v.

MIGUEL PANIAGUA, et al.,

Defendants.

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No. 2:17-CV-0002 SPM

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to vacate consent to a magistrate judge. The motion will be granted.

Plaintiff filed this action on January 10, 2017, and this case was assigned to the United States Magistrate Judge Shirley Padmore Mensah pending consent to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c)(1). Defendants have not yet been served.

Plaintiff filed his voluntary and signed consent on January 20, 2017. No rulings have yet occurred in this case.

Title 28 U.S.C. § 636(c)(4) states:

The court may, for good cause shown on its own motion, or under extraordinary circumstances shown by any party, vacate a reference of a civil matter to a magistrate judge under this subsection.

Factors the Court should consider when ruling on a motion to vacate consent are undue delay, inconvenience to the court and witnesses, prejudice to the parties, whether the motion is made in good faith or is dilatory and contrived, and whether the interests of justice would best be served by holding a party to his consent. *See Carter v. Sea Land Services, Inc.*, 816 F.2d 1018, 1021 (5th Cir. 1987).

In his motion to vacate his consent, signed by plaintiff on January 20, 2017, and filed in this Court on January 31, 2017, plaintiff states that he was confused when he filled out the form and didn't have a clear understanding of what it actually meant when he signed the form. He states that he would like to make it clear that he would like his case determined by a District Judge in this Court, rather than a Magistrate Judge.

Under these circumstances, the Court finds that the motion is timely, that it has been made in good faith, and that justice is best served by allowing plaintiff to overturn his consent to a Magistrate Judge. In other words, plaintiff will be allowed to vacate his referral of this matter to a Magistrate Judge, and this action will be reassigned to a District Judge.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to vacate his consent to a Magistrate Judge [Doc. #5] is **GRANTED**.

Dated this 1st day of February, 2017.



SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE